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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**DONALD BRATTON AND DONALD  
MALLARD, INDIVIDUALLY AND AS  
REPRESENTATIVE OF THE ESTATE  
OF JERVIE MALLARD, SR.,  
DECEASED,**

## Plaintiffs

VS.

**CIVIL ACTION NO: 4:21-cv-02165**

UNION PACIFIC RAILROAD  
COMPANY; PASTOR, BEHLING &  
WHEELER, LLC; AND  
ENVIRONMENTAL RESOURCES  
MANAGEMENT SOUTHWEST, INC.,

## Defendants

## **RULE 16 “LONE PINE” ORDER**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, this Court enters this Order requiring Plaintiffs to provide information and expert evidence regarding their alleged personal injuries and property damage before the Defendants are required to respond to discovery.<sup>1</sup>

Within 90 days after this Order is entered, each Plaintiff shall provide the following to Defendants:

1. Address the Plaintiff has ever lived, attended school, worked, attended church and/or congregated near around the Rail Yard at, including dates;
2. Every medical condition that the Plaintiff contends was caused by Defendants;
3. An affidavit from a medical expert stating :
  - a. The Plaintiff's medical conditions that were caused by exposure to substances at the Site;

<sup>1</sup> *Acuna v. Brown & Root Inc.*, 200 F.3d 335, 340 (5th Cir. 2000); *Lore v. Lone Pine Corp.*, 1986 WL 637507, No. L-33606-85 (N.J. Super. Ct. 1986).

- b. The specific substances at the Site that caused the Plaintiffs' medical conditions;
- c. The specific dates, times, circumstances, and incidents of exposure (i.e., ingestion, inhalation, dermal contact, etc.), how the Plaintiff was exposed to the substance, including how often and in what dosages; and
- d. The scientific and medical bases for the medical expert's opinion, including how the medical expert ruled out other causes for the Plaintiffs' medical conditions.

Defendants' obligation to respond to discovery requests will not begin until the above information is provided for each Plaintiff.

A Plaintiff's failure to comply with this Order will result in dismissal of that Plaintiff's claims.

Signed \_\_\_\_\_, 2021.

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United States District Judge